

CHIKAMING TOWNSHIP ZONING BOARD OF APPEALS
Minutes of the November 21, 2023, Regular Meeting
APPROVED

The November 21, 2023, regular meeting of the Zoning Board of Appeals was held at Chikaming Township Hall and called to order at 1:00 p.m. by Acting Chairman (hereinafter Chair) Thomas Gold. Roll call of members attending: Doug Dow, Liz Rettig, Thomas Gold, Bob Beemer, Phil Bender. 5 present - Quorum.

Noted that Attorney Hilmer and ZA Kelly Largent (hereinafter ZA) are also present along with others attending in the audience.

Chair advises that the next order of business is to approve the October 17, 2023, minutes. Chair asks for corrections/additions. Dow presents 5 minor typographical; Gold presents 4 typographical; Rettig makes the corrections. **Dow makes a motion to approve the minutes as corrected, Gold seconds. VOICE VOTE: 5 AYES. CORRECTED MINUTES APPROVED.**

Chair reads the cases:

Case #2035 Applicant, Patrick Gilligan, 13587 Prairie Road, Harbert, Property Code #11-07-0010-0038-06-1, Applicant's original request was to build a garage 6'11" from the existing house. Section 7.02(C)(2)(a) of Chikaming Township Zoning Ordinance #144, as amended, requires 10' between structures in an R-1 zoning district. After redesigning, the request is for an 8' side yard setback, per the guidance provided by the ZBA.

Kelly starts by showing that in the original plans the garage was separated from the house by less than 10 feet. If we now look at the redesign, the garage is now moved and is adjacent to what was the sunroom and a door with stairs with 2 new entry doors. The setback from the property line is now 8' as previously discussed at the previous meeting where you said you would entertain that as a new setback.

Applicant: Mr. Gilligan speaks stating that at our guidance, he downsized the building in width and added a little in length and attached it to the principal residence.

Public Comment: None

Letters: None

Board Discussion:

Dow says that the applicant has done what we asked him to do. He has attached the garage and we said we would give some leeway on the side yard variance plus he has moved it away from the tree.

Beemer: It qualifies for the variance he has requested.

Chair goes through the criteria:

1. Unique circumstances or conditions exist which apply to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district. All agree. 5 yes. Topography

2. As a result of the unique circumstances or conditions, strict compliance with the provisions of this Ordinance would unreasonably prevent the use of the property for a permitted purpose, or would be unnecessarily burdensome. All agree. 5 yes. Applicant has scaled down from the original ask; and it would be burdensome.
3. The unique circumstances do not result from the actions of the applicants, including the knowing purchase of a property limited by existing non-conformities. All agree. 5 yes.
4. The variance requested is the minimum variance which will make possible the reasonable use of the land, building, or structure. 5 Yes. All agree - minimal.
5. The granting of the variance will be in harmony with the spirit and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, and welfare. 5 Yes. All agree.

Beemer asks to make a comment: We have referred to the tree a few times in discussion. The tree is not a strong consideration in granting a variance. There are other good qualities to grant this variance. We are not hinging this upon a tree.

DOW MOVES AND PHIL SECONDS THAT WE APPROVE THE AMENDED VARIANCE REQUEST FOR CASE #2035 PER THE NEW PLANS PRESENTED. 5 VOTE YES. VARIANCE APPROVED.

Case #2036 Stephen Coorlis, representing the Applicant, Shargeel Dogar, 15155 Lakeside Avenue, Lakeside, Property Code #11-07-5620-0075-00-5, is asking for relief from the 30' front yard setback requirement. This property has 2 front yards. Section 8.05 of Chikaming Township Zoning Ordinance #144, as amended, requires a 30' front yard setback in an NCRI-A zoning district.

Kelly: This request comes back from being tabled in October for a redesign to increase the setback on Red Arrow Highway. Initially it was in here at a 5 – 7-foot setback from Red Arrow Highway and the redesign has moved it to a 15–17-foot setback from Red Arrow Highway, which was discussed as far as increasing the setback and redesigning the house making it wider instead of building on the same footprint since there was space on the side to expand. Gold: for the record, the original parcels A and B are combined? Kelly: Yes, the parcels will be 1 tax number for 2024. Before no part of the house was on the South lot and now the house will partially be located on the lot.

Applicant: Stephen (Architect) speaks stating that he has redesigned the house per the board's recommendation, and it is a better design.

Public Comment: None

Letters: None

Board Discussion: Dow starts by stating that he has done what we asked him to do. They have increased the distance from Red Arrow Highway and have preserved the 30-foot setback on Lakeside which is critical for off street parking. Gold comments that he still thinks they are too close to Red Arrow and would prefer 20 feet and move it 5 feet closer to Lakeside Avenue. Beemer comments that giving 15 – 17 feet on Red Arrow, which is a 100-foot-wide road, and leaving the 30-foot setback on Lakeside Avenue (a very narrow road) alone is a better choice. Phil comments that the applicant has done what we requested, and we don't want to move the goal post. Dow agrees that we should stick to what we asked. Rettig comments that parking on Lakeside Avenue is far more problematic than Red Arrow Highway where no one will park. They can plant bushes along Red Arrow for a barrier.

Chair goes through the criteria:

1. Unique circumstances or conditions exist which apply to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district. All agree. 5 yes. This is a through lot.
2. As a result of the unique circumstances or conditions, strict compliance with the provisions of this Ordinance would unreasonably prevent the use of the property for a permitted purpose, or would be unnecessarily burdensome. All agree. 5 yes. Burdensome is the key factor.
3. The unique circumstances do not result from the actions of the applicants, including the knowing purchase of a property limited by existing non-conformities. All agree. 5 yes. Applicant has complied with our request.
4. The variance requested is the minimum variance which will make possible the reasonable use of the land, building, or structure. 5 Yes. All agree - minimal.
5. The granting of the variance will be in harmony with the spirit and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, and welfare. 5 Yes. All agree.

DOW MOVES AND RETTIG SECONDS THAT THE AMENDED VARIANCE IN CASE #2036 BE APPROVED AS SUPPLEMENTED BY THE NEW DRAWING PRESENTED. 5 VOTE YES. VARIANCE APPROVED.

Case #2037 – Applicant, Dominic Walbridge, 13526 Pine Drive, Harbert, Property Code #11-07-4670-0042-00-3 is requesting a variance to encroach into the front yard setback and exceed lot coverage. Section 8.05 of the Chikaming Township Zoning Ordinance #144, as amended, requires a 30’ front yard setback and also 20% maximum lot coverage. This property is a corner lot and is an NCRI-A zoned property.

Gold discloses that applicant contacted him several months ago about doing this project and Gold advised Mr. Walbridge that he was not interested in doing this project, therefore, feels he does not need to recuse as he has no financial or other interest in this project. All board members agree.

Kelly: In addition to the setback and lot coverage, I had another discussion with someone in Bethany Beach and have discovered that landing for stairs is considered a deck and decks are not allowed to encroach in the side yard setback. Kelly points out that the deck/landing going up to the roof does encroach in the side yard setback and in addition to what we are considering today. The requests are: A 22-foot setback for the front off of Linwood (instead of 30); the sides of the building are over the lot coverage percentage allowed; the current house encroaches far more; the setback off of Linwood would be the same (about 21 feet) and then the landing is raised. In our definitions for corner lots, they are allowed 2 front yards and 2 side yards. Decks are allowed to encroach in front yards, but not side yards. The landing is required because of the stairs. Elevation is fine. The previous percentage of lot coverage was 25% and we are decreasing to 23% making it less non-conforming.

Applicant: We have a small lot. We are not increasing any of the setbacks and overall decreasing lot coverage. The landing is part of the stairs and the only means of egress. In the letter of the ordinance, I believe they are talking about a landing which is not part of a stair.

Board Discussion:

Gold: My only pushback is that the landing is wider than the stairs. I think there is an oddity in the Ordinance, there has to be a landing to access the stairs – it is necessary.

Beemer: The stairway is allowed to encroach? Kelly answers yes.

Gold, I would say that what the ordinance is talking about is not a landing for stairs, but a separate sitting area like for going to the beach. This is a pure function of the stairway.

Gold, let's look at the bigger issue which is the front yard setback. He has done a good job of trading areas, squaring the building, and they move the house off of Pine and make the site lines better.

Discussion about the deck – which does not go toward lot coverage or setback. Dow weighs in that the new design improves on lot coverage and agrees that the landing is a function of the stairs. Beemer feels it is a thoughtful approach on a 6,000-foot lot.

Public Comment: None

Letters: None

Chair goes through the criteria:

1. Unique circumstances or conditions exist which apply to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district. All agree. 5 yes. This is a corner lot.
2. As a result of the unique circumstances or conditions, strict compliance with the provisions of this Ordinance would unreasonably prevent the use of the property for a permitted purpose, or would be unnecessarily burdensome. All agree. 5 yes. Burdensome is the key factor and the smallness of the lot makes strict compliance difficult.
3. The unique circumstances do not result from the actions of the applicants, including the knowing purchase of a property limited by existing non-conformities. All agree. 5 yes. Applicant is decreasing the non-conformity.
4. The variance requested is the minimum variance which will make possible the reasonable use of the land, building, or structure. 5 Yes. All agree - minimal.
5. The granting of the variance will be in harmony with the spirit and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, and welfare. 5 Yes. All agree. Improving the site lines on the corner.

DOW MOVES AND BENDER SECONDS THAT WE APPROVE THE VARIANCE IN CASE #2037 AS DOCUMENTED IN THE SUBMITTED DRAWINGS. 5 VOTE YES. VARIANCE APPROVED.

Case #2038 – Applicant, Ann Krsul, representing property owner Raymond Weber, 14693 Meadow Lane, Lakeside, Property Code #11-07-4900-0002-00-0 is requesting a variance to replace the pool in the front yard which will meet front and side yard setbacks. Section 7.02 D of Chikaming Township Zoning Ordinance #144, as amended, states non-building structures (swimming pools) must be located in the side or rear yard.

Kelly starts by stating this lot is so unique. The n/a in the application about the pool is because part of the pool is in the side yard and part in the front yard. Because of the demo of the old pool, they start with a blank slate. We are only considering the portion that is in the front yard.

Dow reminds us that this is a repeat customer. This is a triangular lot with no back or side yard. We have already approved the variance for the new garage and new pool house. Rettig asks about the old garage.

Kelly states that the old garage will be demolished, and the new pool house will be built – which has already been approved. They are using the old garage until the new pool house is built. Kelly continues, the old pool was originally going to remain, but the lining has failed, and they are replacing, but they are making it larger. The new pool is 54 feet long. The current pool is 48. The pool location is in the middle of the complex, but it is still considered front yard.

Applicant: Architect speaks stating that the current hot tub is being moved and added to the new pool. The hot tub was previously encroaching in the side setback. We see it as an improvement because we are removing the structure by the neighbors and putting it in the compound in the middle.

Rettig asks if lot coverage is an issue; Kelly says no. Dow, given the structure of this lot, no matter where they put the pool, would it be considered the front yard? Kelly: yes.

Public Comment: None

Letters: None

Board Discussion: This is a lot for which the ordinance was not designed. Everything is a front yard, and they need a variance for everything. This is largely a replacement in kind. Getting the encroachment out of the side yard is a plus.

Chair goes through the criteria:

1. Unique circumstances or conditions exist which apply to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district. All agree. 5 yes. This is a corner lot – 2 front yards.
2. As a result of the unique circumstances or conditions, strict compliance with the provisions of this Ordinance would unreasonably prevent the use of the property for a permitted purpose, or would be unnecessarily burdensome. All agree. 5 yes. Burdensome is the key factor.
3. The unique circumstances do not result from the actions of the applicants, including the knowing purchase of a property limited by existing non-conformities. All agree. 5 yes. The applicant is trading space.
4. The variance requested is the minimum variance which will make possible the reasonable use of the land, building, or structure. 5 Yes. All agree - minimal.
5. The granting of the variance will be in harmony with the spirit and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, and welfare. 5 Yes. All agree. Improving the neighboring situation because of moving the hot tub.

DOW MOVES THAT WE APPROVE THE VARIANCE REQUESTED IN CASE #2038 AS DOCUMENT IN THE PLANS SUBMITTED. GOLD SECONDS. ALL VOTE YES - 5. VARIANCE APPROVED.

Case #2039 – Applicant, Deny Burke, representing homeowner Robert Linton, Greenwood Avenue, Union Pier, Property Code #11-07-4570-0046-01-0 is requesting a variance to allow 3 accessory buildings in the front yard. Section 7.02(4)(C)(1) of Chikaming Township Zoning Ordinance #144, as amended, states: “accessory structures shall not be permitted in the font yard.” This property has 2 front yards and is in an R-1 zoning district.

Kelly starts by stating this is a through lot. They have combined the 2 lots for the 2024 tax roll. Both lots were non-conforming and had the same ownership, they would have been combined from a zoning

perspective and not be allowed to be sold separately per the Ordinance. Small shed in front is accessory structure #1, Detached garage and studio are #2 and #3 – this is the maximum allowed. The lot coverage is: 18.2% for impervious at 11.93% for buildings. All setbacks are met. 3 structures are allowed, but they are all in a “front yard” because of the 2 streets.

Applicant: Architect Denny Burke speaks. The reason for the shed on the water side is going to the beach and beach toys. Owners currently work from home and the studio is used for art creations. No mature trees are being touched and primary motivation is because of the trees. We considered connecting the buildings.

Public Comment:

Eileen Tyrpak – concerned about the studio – does it have a bathroom, kitchenette, is it 1 story? Architect answers – has a bathroom, no kitchenette, and small storage above – below 6’ 8”. Eileen says that at first it was called a coach house, and my concern was it being rented out and you also have cars on both sides Greenwood and Woodlawn – 2 driveways. Architect: this is their primary residence and have no plans for renting.

Stan Wilk – I am for this proposal. The mature trees in this neighborhood are falling down and should not be considered in this discussion.

Letters: None.

Board Discussion:

Beemer has no problem with the 2 larger buildings on the Woodlawn side, but not crazy about the shed which is in the front yard (Greenwood side) and sees no practical difficulty why it has to be in the front yard. The lot is large, and the shed would be in front of the house. Gold agrees. The shed should be attached to the structure or moved. We have no lot coverage issue. This is not unique. Dow agrees that the spirit of the Ordinance is at risk – the front yard is to be kept clean and neat. The address is on Greenwood. We cannot have buildings in both front yards. Rettig agrees that the shed needs to be moved to the center or nearer the other 2 structures – not in the front yard. Pick one yard which will effectively be the front and one to be the back. Everyone seems to be in agreement that the 2 structures are ok. Any variance would be contingent on moving the shed closer to the other 2 and not on the Greenwood side. Architect asks about connecting the shed. Kelly clarifies the options for the Architect.

Chair goes through the criteria:

1. Unique circumstances or conditions exist which apply to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district. All agree. 5 yes. This is a through lot.
2. As a result of the unique circumstances or conditions, strict compliance with the provisions of this Ordinance would unreasonably prevent the use of the property for a permitted purpose, or would be unnecessarily burdensome. All agree. 5 yes.
3. The unique circumstances do not result from the actions of the applicants, including the knowing purchase of a property limited by existing non-conformities. All agree. 5 yes. Through lot.
4. The variance requested is the minimum variance which will make possible the reasonable use of the land, building, or structure. 5 Yes. All agree - minimal.
5. The granting of the variance will be in harmony with the spirit and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, and welfare. 5 Yes. All agree.

DOW MOVES THAT THE VARIANCE REQUEST BE APPROVED IN CASE #2039 TO ALLOW UP TO THREE (3) ACCESSORY STRUCTURES IN A FRONT YARD WITH THE CONDITION THAT THE SHED ACCESSORY STRUCTURE ON THE FRONT OF THE PRIMARY HOUSE ON GREENWOOD BE REMOVED, RELOCATED OR ATTACHED. SECONDED BY PHIL. 5 VOTE YES. VARIANCE APPROVED.

Case #2040 – Applicant, Merritt Midwest representing Deborah Chipman, 7322 Harbert Road, Harbert, Property Code #11-07-0016-0028-11-1 is requesting a variance from the maximum front yard setback in a C-H zoned property. Section 4.02 of Chikaming Township Zoning Ordinance #144, as amended allows a 25-foot maximum front yard setback.

Dow discloses that he has had a professional and personal relationship with John Chipman (applicant) and has worked together on township business for 5 or 6 years. I have no financial interest and if anyone has any objection, I will recuse myself. Board members have no objection.

Kelly begins that in a CH (Commercial Harbert) zoning district there is a minimum front yard setback of 15 feet and a maximum of 25 feet. They are asking for a variance from the maximum setback because of the underground drain and easement which must be maintained. They are 88 feet off of the road right of way (Harbert Road). Many drawings were presented, but they all encroach in the drain easement area which the Drain Commission will not allow. Therefore, the choice for the location is more than the maximum 25-foot setback. This is mixed use – commercial/residential. 1 of the 4 mixed use zones. But looking at the drawings, the walkway still encroaches.

Public Comment: Jerry Olson who has an office across Red Arrow from this property and is in support of the variance. The parking is an issue because of the easement.

Applicant: Architect Rob Pierson of Merritt Midwest speaks. The drain easement is definitely a burden. The walkway is a sidewalk – not a structure. We can have drives and walkways over the easement. As long as there is no structure. The house will be single family.

Letters: None.

Board Discussion:

Dow feels it is straight forward – pretty unique circumstances. The sketch is pretty much the only place a structure can go.

Chair goes through the criteria:

1. Unique circumstances or conditions exist which apply to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district. All agree. 5 yes. Drain easement.
2. As a result of the unique circumstances or conditions, strict compliance with the provisions of this Ordinance would unreasonably prevent the use of the property for a permitted purpose, or would be unnecessarily burdensome. All agree. 5 yes. Easement is a burden.
3. The unique circumstances do not result from the actions of the applicants, including the knowing purchase of a property limited by existing non-conformities. All agree. 5 yes.
4. The variance requested is the minimum variance which will make possible the reasonable use of the land, building, or structure. 5 Yes. All agree.

5. The granting of the variance will be in harmony with the spirit and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public health, safety, and welfare. 5 Yes. All agree.

DOW MOVES THAT THE VARIANCE REQUEST BE APPROVED IN CASE #2040 TO ALLOW AN 88 FOOT SETBACK IN THE FRONT YARD AS REFLECTED IN THE DRAWINGS SUBMITTED. SECONDED BY RETTIG. 5 VOTE YES. VARIANCE APPROVED.

Beemer asks about the name of the drain – Harbert County Drain.

Discussion and review about 2024 calendar for board meetings – to be approved at the December meeting. We have a date in January with an issue with a proposal for no ZBA meeting in January.

Discussion about new alternate ZBA member Frank Richter.

Chair asks if there is any further business to come before the Board or comments from the public. None.

GOLD CALLS FOR ADJOURNMENT AT 2:26 P.M. Voice vote: All ayes. Chair announces we are adjourned at 2:26 p.m.

Respectfully submitted,

Elisabeth A. Rettig
Recording Secretary

Date Approved December 19, 2023